



3

## Planning Commission Study Session

**TO:** PLANNING COMMISSION

**FROM:** JORDAN FELD, AICP, SENIOR PLANNER *DF*  
(480) 503-6478, JORDAN.FELD@GILBERTAZ.GOV

**THROUGH:** CATHERINE LORBEER AICP, PRINCIPAL PLANNER *djl*  
(480) 503-6016, CATHERINE.LORBEER@GILBERTAZ.GOV

**MEETING DATE:** NOVEMBER 5, 2014

**SUBJECT:** Z13-11, BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.303 LAND USE REGULATIONS, TABLE 2.303 LAND USE REGULATIONS – COMMERCIAL DISTRICTS, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; ARTICLE 2.7 PUBLIC FACILITY/ INSTITUTIONAL DISTRICT, SECTION 2.702 LAND USE REGULATIONS, TABLE 2.702 LAND USE REGULATIONS – PUBLIC FACILITY/INSTITUTIONAL DISTRICT, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES; AND TO AMEND DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, TO REVISE THE DEFINITION FOR "HOSPITAL" TO INCLUDE FACILITIES OFFERING BEHAVIORAL HEALTH SERVICES.

**STRATEGIC INITIATIVE:**

Community Livability

Clarify the definition of Hospitals to include Behavioral Health Hospitals and provide a range of zoning districts where this use is permitted.

## **RECOMMENDED MOTION**

### **NO MOTION REQUESTED**

## **BACKGROUND/DISCUSSION**

### **History**

| <i>Date</i>             | <i>Action</i>   |
|-------------------------|---|
| <i>July 3, 2013</i>     | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and conducted the Citizen Review meeting, but did not initiate the text amendment. |
| <i>December 4, 2013</i> | Planning Commission conducted a second Citizen Review meeting and initiated this text amendment.  |
| <i>March 5, 2014</i>    | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and continued the case to the April 2, 2014 Study Session for further discussion.  |
| <i>April 2, 2014</i>    | Planning Commission held a Study Session to discuss the possible text amendments.   |
| <i>May 7, 2014</i>      | Planning Commission held a Public Hearing and tabled the proposed text amendments to allow for the formation and input of a stakeholder group.                          |
| <i>October 1, 2014</i>  | Planning Commission held a Study Session to discuss the findings of the stakeholder group.  |

### **Overview**

At the Planning Commission's May 7, 2014 meeting, the Planning Commission held a public hearing to consider making a recommendation to the Town Council on Z13-11, a proposed text amendment to the Land Development Code dealing with the regulation of behavioral health hospitals. The Planning Commission voted unanimously to table Z13-11 to allow staff additional time to work on the text amendment with concerned citizens and stakeholders interested in behavioral health facilities. A behavioral health text amendment stakeholder group was formed in June of 2014 and met three times over the summer. Staff presented the findings of the group at the October 1, 2014 Planning Commission Study Session. Of particular consequence to drafting a text amendment were the following concepts (taken from the formal findings):

- Significant community input has emphasized the need to limit or require separation for behavioral health facilities, especially in proximity to schools and day care uses.
- Heightened/defensible review is needed to provide opportunity for community dialogue when a hospital is proposed.
- Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.

- In urban areas, it's not uncommon for hospitals and sensitive lands uses to be located within close proximity.
- In practice, ADA prevents dissimilar regulation of like-medical care land uses. In-patient behavioral health facilities are considered as Hospitals by the Gilbert Land Development Code (consistent with State Statute).

During the October Study Session, several land use analysis maps were also discussed. These maps indicated the potential impact of applying 500' and 1000' separation requirements to parcels that could potentially support Hospital development; the general conclusion from this analysis is that 1000' separation may significantly and unnecessarily limit the ability for new hospitals to locate in the Town. Moreover, the 500' separation is more consistent with existing LDC separation regulations that intend to minimize line-of-sight, as opposed to separation requirements intending to mitigate concentration of use. Another point of consideration is the measurement criteria for the distance requirement; to ensure all potential hospital development provides an absolute minimum separation of 500' (with no reduction available for ROW, utilities, or building-to-building measurements) the separation measurement is drafted to consider only the proximity of one use's nearest parcel line to another use's nearest property line.

Additionally, these maps showed the location of the Town's General Plan Growth Areas where staff is recommending, based on the stakeholder group findings, that hospital regulations be relaxed to provide incentives for Health Care Facilities like hospitals to develop in the Town's existing and planned urban cores.

Consistent with the stakeholder group's main finding, staff has also recommended that proposed hospitals located outside of a Growth Area be required to go through the Conditional Use Permit process for all zoning districts that permit Hospitals. The stakeholder group also communicated an interest in prohibiting future hospital development in the General Commercial (GC) zoning district, which currently allows hospitals by right. Staff carefully considered this concept and ultimately found that applying the Conditional Use Permit and Day Care & School separation requirements would protect the community's interests while not precluding the ability for future smaller scale hospitals to locate in the Town. Please note that the exhibit showing a 500' separation shows that GC parcels already within 500' of a school or day care could not accommodate a new Hospital. The vast majority of vacant GC parcels are located in the Growth Areas and with the regulatory incentives envisioned with this text amendment (zoning flexibility for hospitals proposed in Growth Areas), it's logical to predict more intense hospitals (that are also less compatible within a residential setting) will develop in the Growth Areas and be much less likely to seek out smaller, more isolated, GC parcels outside of the Growth Areas. Staff also has concerns with overly restricting existing GC land uses and the economic and legal impacts from potential over-regulation; to this end, limiting a specific use (i.e., requiring a Conditional Use Permit and separation requirements) already allowed by right is a more practical approach.

Finally, the definition of Hospital has been modified to include the specific terminology used in Title 9 "Health Services" of Arizona Administrative Code which distinguishes between "Physical health services" and "Behavioral health services". The intent of the Hospital land use category is to allow in-patient care for Physical or Behavioral health services; clarifying text has been recommended to ensure this objective.

## **Proposed Zoning Code Amendment**

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites within a zoning district that permits Hospitals (GC, RC, GO, BP and PF/I) and in a General Plan designated Growth Area. In addition, Hospitals would be allowed in the GC, RC, GO, BP and PF/I zoning districts outside of Growth Areas with a Conditional Use Permit. The five tables below show the amendments for each zoning district currently permitting Hospitals.

**Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.3 Commercial Districts, Section 2.303 Land Use Regulations, Table 2.303 Land Use Regulations – Commercial Districts**

Table 2.303 Land Use Regulations – Commercial Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

**Table 2.303: Land Use Regulations – Commercial Districts**

| Use Classification   | NC | CC | SC | GC         | RC  | Additional Regulations    |
|--|----|----|----|------------|-----|---------------------------|
| * * *  |    |    |    |            |     |                           |
| Health Care Facilities<br><i>Hospital</i>  | -- | -- | -- | <u>L9P</u> | L9P | <u>SEE SECTION 4.5016</u> |
| <i>Urgent Care Facility</i>  | P  | P  | P  | P          | P   |                           |
| <i>Medical Offices and Clinics</i>   | P  | P  | P  | P          | P   |                           |
| * * *  |    |    |    |            |     |                           |
| Limitations  |    |    |    |            |     |                           |
| * * *  |    |    |    |            |     |                           |
| <u>L9 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u> |    |    |    |            |     |                           |
| * * *  |    |    |    |            |     |                           |

**Proposed Zoning Code Amendment (#)**

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with GO zoning in a General Plan designated Growth Area, and referencing additional requirements for that use.

**Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.5 Office Districts, Section 2.503 Land Use Regulations, Table 2.503 Land Use Regulations – Office Districts**

Table 2.503 Land Use Regulations – Office Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

**Table 2.503: Land Use Regulations – Office Districts**

| <i>Use Classification</i> | <i>NO</i> | <i>GO</i> | <i>Additional Regulations</i> |
|---------------------------|-----------|-----------|-------------------------------|
|---------------------------|-----------|-----------|-------------------------------|

|   |    |            |                                  |
|---|----|------------|----------------------------------|
| * * *   |    |            |                                  |
| Health Care Facilities<br><i>Hospital</i>   | -- | <b>L8U</b> | <b><u>SEE SECTION 4.5016</u></b> |
| <i>Urgent Care Facility</i>   | U  | P          |                                  |
| <i>Medical Offices and Clinics</i>  | P  | P          |                                  |
| * * *   |    |            |                                  |
| <b>Limitations</b>  |    |            |                                  |
| * * *   |    |            |                                  |
| <b><u>L8 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u></b> |    |            |                                  |
| * * *   |    |            |                                  |

### Proposed Zoning Code Amendment (#)

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with BP zoning and in a General Plan designated Growth Area, and referencing additional requirements for that use.

### Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.6 Employment Districts, Section 2.603 Land Use Regulations, Table 2.603 Land Use Regulations – Employment Districts

Table 2.603 Land Use Regulations – Employment Districts is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

**Table 2.603: Land Use Regulations – Employment Districts**

| <i>Use Classification</i>   | <i>BP</i>  | <i>LI</i> | <i>GI</i> | <i>Additional Regulations</i>    |
|---|------------|-----------|-----------|----------------------------------|
| * * *   |            |           |           |                                  |
| Health Care Facilities<br><i>Hospital</i>   | <b>L9U</b> | --        | --        | <b><u>SEE SECTION 4.5016</u></b> |
| <i>Medical Offices and Clinics</i>  | P          | --        | --        |                                  |
| * * *   |            |           |           |                                  |
| <b>Limitations</b>  |            |           |           |                                  |
| * * *   |            |           |           |                                  |
| <b><u>L9 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u></b> |            |           |           |                                  |
| * * *   |            |           |           |                                  |

### Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to require that Hospitals be allowed by right on sites with PF/I zoning in a General Plan designated Growth Area, allowed in the PF/I zoning district (outside of Growth Areas) with a Conditional Use Permit and referencing additional requirements including the 500' separation noted in Section 4.5016 .

**Chapter 1 Zoning Regulations, Division 2 Land Use Designations, Article 2.7 Public Facility/ Institutional District, Section 2.702 Land Use Regulations, Table 2.702 Land Use Regulations – Public Facility/ Institutional District**

Table 2.702 Land Use Regulations – Public Facility/ Institutional District is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

**Table 2.702: Land Use Regulations – Public Facility/ Institutional District**

| <i>Use Classification</i>   | <i>PF/I</i>        | <i>Additional Regulations</i>    |
|---|--------------------|----------------------------------|
| * * *   |                    |                                  |
| Health Care Facilities<br><i>Hospital</i>   | <b><u>L6 P</u></b> | <b><u>SEE SECTION 4.5016</u></b> |
| <i>Urgent Care Facility</i>   | P                  |                                  |
| * * *   |                    |                                  |
| <b>Limitations</b>  |                    |                                  |
| * * *   |                    |                                  |
| <b><u>L6 - CONDITIONAL USE PERMIT (U) APPROVAL IS REQUIRED UNLESS THE SITE IS LOCATED WITHIN A TOWN OF GILBERT GENERAL PLAN DESIGNATED GROWTH AREA, IN WHICH CASE THE USE IS PERMITTED (P).</u></b> |                    |                                  |
| * * *   |                    |                                  |

**Proposed Zoning Code Amendment**

Planning staff proposes changes to the Land Development Code to require that Hospitals be located a minimum distance of 500' from Day Care and School uses, unless the Hospital is located within in a General Plan designated Growth Area in which case there is no separation requirement.

**Chapter 1 Zoning Regulations, Division 4 General Regulation, Article 4.5 Supplemental Use Regulations**

Article 4.5 Supplemental Use Regulations is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

**Article 4.5 Supplemental Use Regulations**

**Sections**

\* \* \*

4.5015 Recovery Residence

4.5016 **HOSPITALS**  
4.501617 Miscellaneous Provisions  
\* \* \*

#### **4.5016 HOSPITALS**

- A. PURPOSE. THE PURPOSE OF THESE REGULATIONS IS TO ENSURE COMPATIBILITY BETWEEN HOSPITALS, DAYCARE AND SCHOOL USES.**
- B. GENERAL PLAN GROWTH AREAS. THE GENERAL PLAN DESIGNATES GROWTH AREAS IN THE TOWN THAT ARE APPROPRIATE FOR URBAN-CHARACTER LAND USE INTEGRATION. HOSPITALS IN GENERAL PLAN GROWTH AREAS ARE NOT SUBJECT TO THE LOCATION REQUIREMENTS CONTAINED IN THIS ARTICLE.**
- C. LOCATION REQUIREMENTS. HOSPITALS SHALL BE A MINIMUM DISTANCE OF 500 FEET FROM DAYCARE AND SCHOOL USES. MEASUREMENTS SHALL BE MADE IN A STRAIGHT LINE IN ALL DIRECTIONS, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS, FROM THE NEAREST POINT ON THE PROPERTY LINE OF A PARCEL CONTAINING A HOSPITAL TO THE NEAREST POINT ON THE PROPERTY LINE OF A PARCEL CONTAINING A DAYCARE OR SCHOOL USE.**

4.501617 Miscellaneous Provisions  
\* \* \*

#### **Proposed Zoning Code Amendment**

Planning staff proposes changes to the Land Development Code to clarify the land use definition for Hospitals to ensure this use allows for facilities that provide in-patient physical or behavioral health services.

#### **Chapter 1 Zoning Regulations, Division 6 Use Definitions, Article 6.1 Use Definitions**

Article 4.5 Supplemental Use Regulations is hereby amended to read as follows (additions in **ALL CAPS BOLD UNDERLINE**; deletions in ~~strikeout~~):

\* \* \*

#### **Health Care Facilities.**

*Hospital.* A facility licensed by the State of Arizona that provides **IN-PATIENT PHYSICAL AND BEHAVIORAL HEALTH SERVICES THROUGH THE** diagnosis and treatment of patients ~~and inpatient care~~ by a medical staff.

\* \* \*

## **PUBLIC NOTIFICATION AND INPUT**

Two Citizen Review meetings were held on July 3, and December 4, 2013 and a public hearing was held on March 5, 2014. For the May 7, 2014 meeting, a notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

The current recommendation by staff, if the Planning Commission desires to go forward, will need to be re-advertised for a future public hearing as certain changes being proposed were not included in the original notification.

## **STAFF REQUEST**

Staff requests Planning Commission input.

Respectfully submitted,



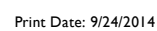
Jordan Feld, AICP  
Senior Planner

### **Attachments:**

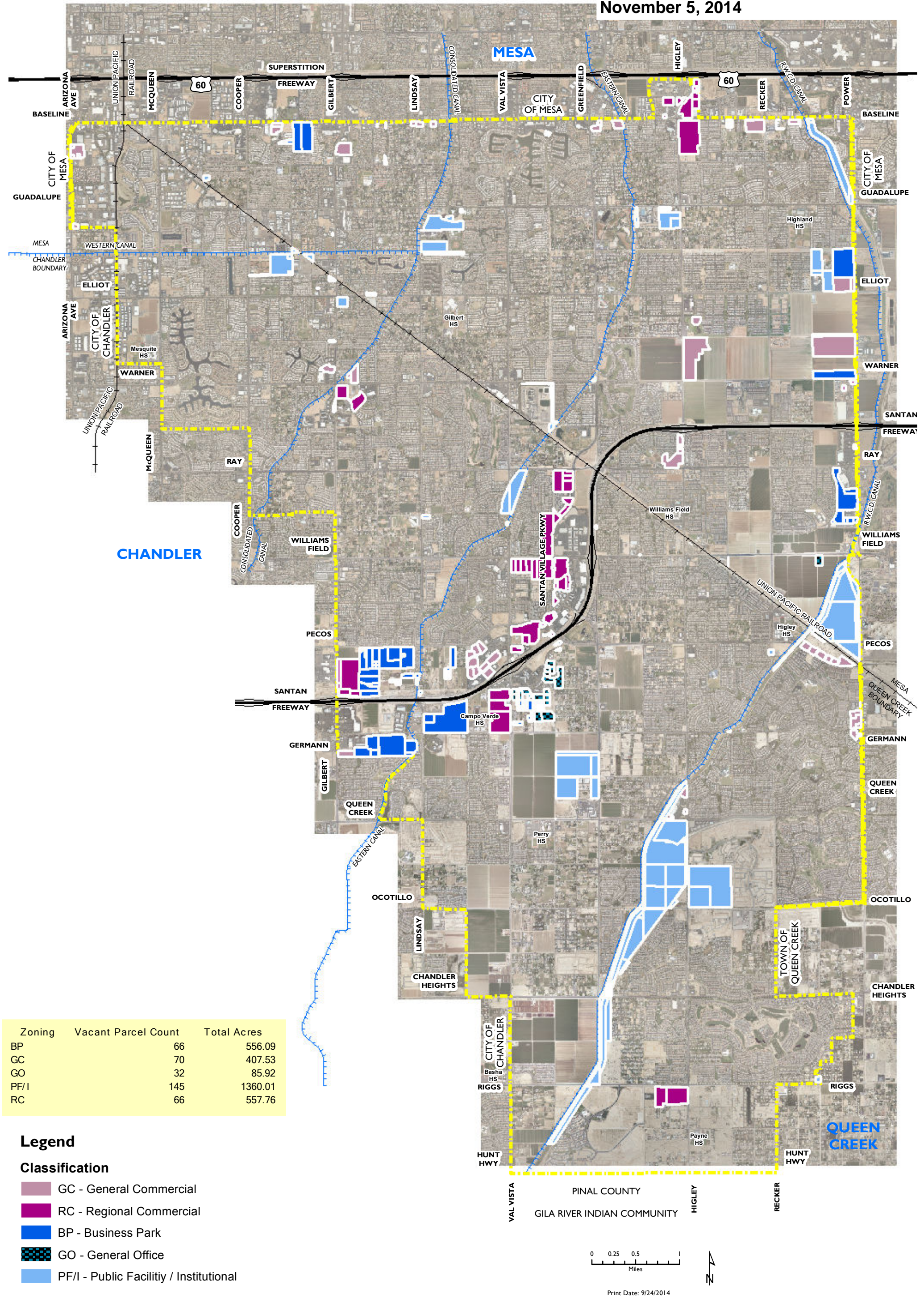
|              |   |
|--------------|---|
| Attachment 1 | Map 1 – 500’ Separation                                 |
| Attachment 2 | Map 2 – 1000’ Separation                                |
| Attachment 3 | Map 3 – Vacant Sites with Hospital zoning               |
| Attachment 4 | Map 4 – Growth Areas/ Vacant Sites with Hospital zoning |
| Attachment 5 | Planning Commission Staff Report (October 1, 2014)      |
| Attachment 6 | Planning Commission Meeting Summary (October 1, 2014)   |



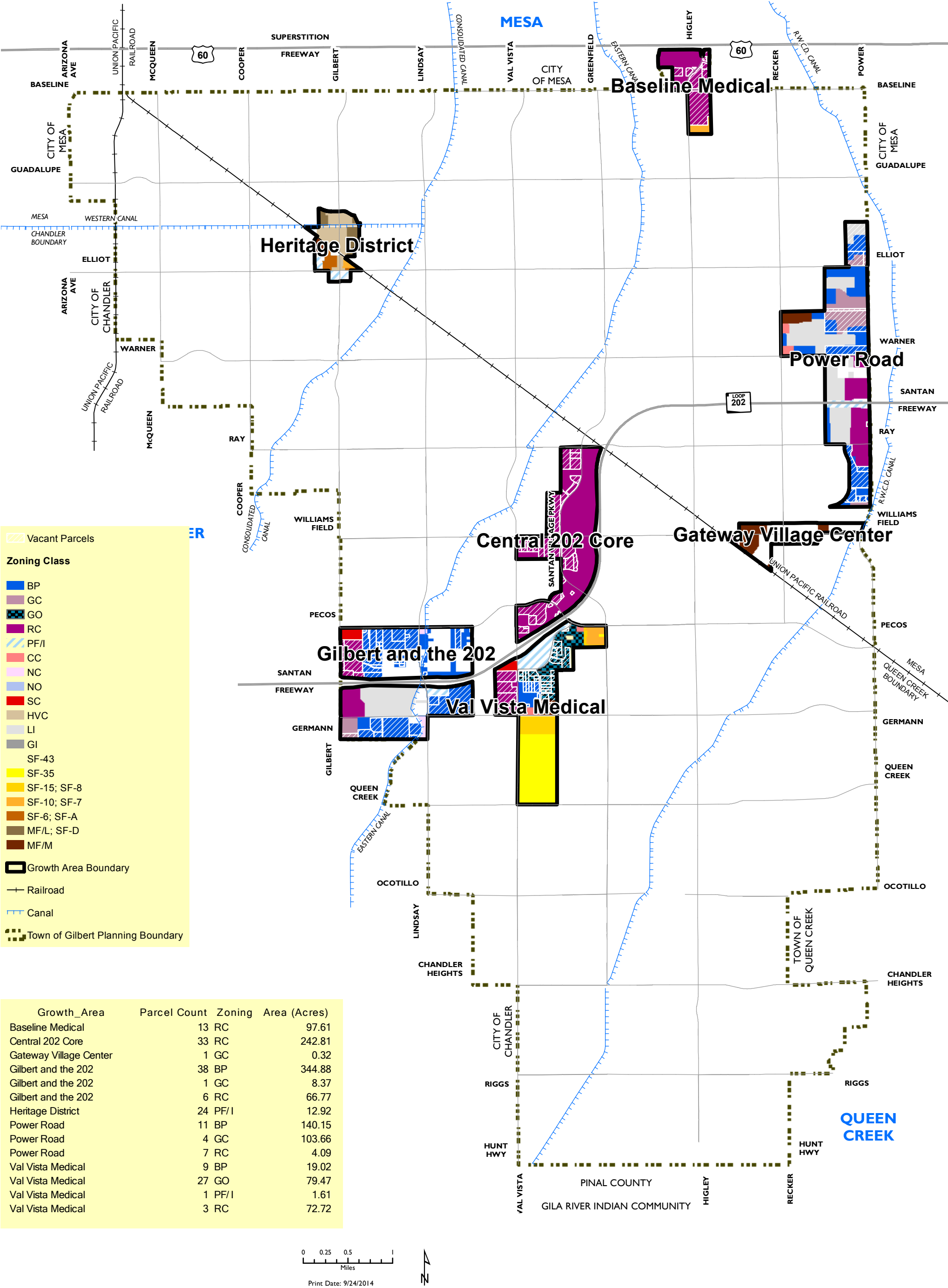














1

## Planning Commission Study Session

**TO:** PLANNING COMMISSION

**FROM:** JORDAN FELD, AICP, SENIOR PLANNER  
(480) 503-6478, JORDAN.FELD@GILBERTAZ.GOV

**THROUGH:** CATHERINE LORBEER AICP, PRINCIPAL PLANNER  
(480) 503-6016, CATHERINE.LORBEER@GILBERTAZ.GOV

**MEETING DATE:** OCTOBER 1, 2014

**SUBJECT:** Z13-11, BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.303 LAND USE REGULATIONS, TABLE 2.303 LAND USE REGULATIONS – COMMERCIAL DISTRICTS, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; ARTICLE 2.7 PUBLIC FACILITY/ INSTITUTIONAL DISTRICT, SECTION 2.702 LAND USE REGULATIONS, TABLE 2.702 LAND USE REGULATIONS – PUBLIC FACILITY/INSTITUTIONAL DISTRICT, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES; AND TO AMEND DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, TO REVISE THE DEFINITION FOR "HOSPITAL" TO INCLUDE FACILITIES OFFERING BEHAVIORAL HEALTH SERVICES.

**STRATEGIC INITIATIVE:**

Community Livability

Clarify the definition of Hospitals to include Behavioral Health Hospitals and provide a range of zoning districts where this use is permitted.

## **RECOMMENDED MOTION**

### **NO MOTION REQUESTED**

## **BACKGROUND/DISCUSSION**

### **History**

| <i>Date</i>      | <i>Action</i>   |
|------------------|---|
| July 3, 2013     | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and conducted the Citizen Review meeting, but did not initiate the text amendment. |
| December 4, 2013 | Planning Commission conducted a second Citizen Review meeting and initiated this text amendment.  |
| March 5, 2014    | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and continued the case to the April 2, 2014 Study Session for further discussion.  |
| April 2, 2014    | Planning Commission held a Study Session to discuss the possible text amendments.   |
| May 7, 2014      | Planning Commission held a Public Hearing and tabled the proposed text amendments to allow for the formation and input of a stakeholder group.                          |

### **Overview**

At the Planning Commission's May 7, 2014 meeting, the Planning Commission held a public hearing to consider making a recommendation to the Town Council on Z13-11, a proposed text amendment to the Land Development Code dealing with the regulation of behavioral health hospitals. At that time, and based on input received through the public meetings that had been held, staff identified three options for addressing behavioral health land uses. These options included modifying the use definition for "Hospital" to specify that it includes behavioral health care services; requiring approval of a conditional use permit for a "Hospital" in the General Commercial, Regional Commercial and Public Facility/ Institutional zoning districts; and to add separation distances for hospitals from "Schools, Public or Private" and "Day Care Center" uses. The Planning Commission voted unanimously to table Z13-11 to allow staff additional time to work on the text amendment with concerned citizens and stakeholders interested in behavioral health facilities.

### **Stakeholder Group**

A behavioral health text amendment stakeholder group was formed as directed by the Planning Commission. The stakeholder group was made up of members of the Town Council and Planning Commission, various behavioral health industry representatives, the business community, the Arizona Department of Health Services, fire/EMT personnel, residents of the Town and Town staff (see Attachment 1). Three stakeholder group meetings were held, meeting monthly over the summer and one additional one-on-one meeting was held with a Town resident.

The stakeholder group was very effective in ferreting out the issues critical to the Town and the regulatory tools that may best serve or address those issues. Following the third and final stakeholder group meeting and based on input from the stakeholder group, staff prepared a summary of the facts learned during the process, to help consolidate the stakeholder group's efforts and to utilize going forward. The summary is provided below:

- 1) Community concern is heightened about the location of Behavioral Health Hospitals due to a for-profit facility proposing to come into Gilbert that was permitted by right in a General Commercial zoning district to develop approximately 75 feet from an elementary school.
- 2) The State has adopted new licensing standards and rules that integrate behavioral health services with physical health and well-being, in response to emerging public health policy about the critical value of integrated healthcare delivery. A patient could be treated for a physical issue or a behavioral health issue in the same hospital with one medical record.
- 3) Specialized care/services for behavioral health may exist within a physical health facility or hospital. Certain services could be offered in a medical clinic, adult day care, office, group home, or recovery residence.
- 4) The cost to the State for regulating and servicing individual and community health demand is enormous (cumulative cost exceeds education, infrastructure and public safety). See [http://www.usgovernmentspending.com/state\\_spending\\_2014AZbn](http://www.usgovernmentspending.com/state_spending_2014AZbn)
- 5) Significant community input has emphasized the need to limit or require separation for behavioral health facilities that treat court-determined dangerous individuals that desire to locate in Gilbert and has expressed the need for heightened review of facilities that treat potentially dangerous individuals, especially in proximity to schools and day care uses. The heightened review would offer a transparent process with honest dialogue about a proposed facility's general characteristics.
- 6) Consistent with all suburban municipalities in our region, there is an overwhelming need in Gilbert for specialized behavioral health care. The community has expressed some concern regarding behavioral health treatment facilities even when those individuals have not been determined, or potentially considered, a danger.
- 7) The security of behavioral health facilities is a dominant concern of the community. The community desires a solution for these security concerns that is legally defensible.
- 8) The National Institute of Mental Health (NIMH) reports that 26.2% of Americans experience a diagnosable mental disorder during any given year and individuals with a serious mental illness are known to die 25 years earlier than the general population (31.8 years sooner in Arizona) due to years of life lost from co-morbid chronic physical health conditions and suicide.
- 9) The inadequacy of services specific to behavioral health places a serious burden on general physical health facilities and hospitals that are not largely equipped to serve behavioral health needs. A significant outcome from this situation is the unnecessary occupancy of emergency medical facilities by those in need of behavioral health services, and the attendant delay for emergency medical services.

- 10) Behavioral health facilities tend to place greater demand on a community's emergency medical first-response services than other land use types due to the transportation needs of patients in crises mode.
- 11) Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.
- 12) Within the Phoenix Metro region, behavioral health facilities and hospitals are located close to schools and daycare, and in some instances, are located on the same parcel.
- 13) Schools and day care uses are permitted in nearly every zoning district in Gilbert.
- 14) The American with Disabilities Act (ADA) prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. In practice, ADA prevents dissimilar regulation of like-medical care land uses.
- 15) In-patient behavioral health facilities are considered as Hospitals by the Gilbert Land Development Code.
- 16) The Gilbert Land Development Code provides specific separation (concentration of use, proximity to incompatible or sensitive land uses) requirements for certain land uses.
- 17) Pockets of Maricopa County land (County islands) within the Gilbert Planning Area have different zoning requirements.

### **Next Steps**

This report reviews the facts and information developed through the behavioral health text amendment stakeholder group process. During this process, staff developed a Hospital Use Matrix (Attachment 2), which shows which districts support hospital uses as well as the different behavioral health related uses and the zoning districts that they are allowed in. The information is useful for understanding the different zoning districts that allow hospitals and how to develop new hospital regulations.

The key concerns driving the need for additional hospital regulation focus on separation of hospitals from land uses with high concentrations of children, specifically daycare and school uses. Staff has begun developing hospital use and buffer maps to show the effects of a potential separation requirement for hospitals specific to schools and daycare land uses. The community has expressed specific concern over the conditional use permit process for hospitals in the General Commercial (GC) zoning district, particularly without separation requirements from incompatible land uses. Staff has begun using GIS mapping analysis to determine the amount of GC zoned land that could support a hospital and what impacts may occur if further regulation of hospitals in the GC is implemented.

Beyond GC zoned parcels, there is overriding community concern of hospitals locating in close proximity to uses with high concentrations of children. To mitigate this concern, staff has begun looking at separation requirements and the requirement for a conditional use permit for hospitals regardless of underlying zoning. Finally, the stakeholder group discussed the potential benefits of concentrating medical service uses and integrate behavioral health services with physical health and well-being therefore staff will be looking at the General Plan designated Growth



Areas and possibly exempting these areas from any new hospital use separation requirement. The three hospitals in Gilbert are currently located in 3 of the 5 Growth Areas.

The Planning Commission's input on the information gathered to date and specific steps for moving forward are sought by staff. Staff intends to continue working on developing a draft recommendation for amending the Land Development Code and anticipates returning to the Planning Commission at the November 5, 2014 meeting to present the initial recommendation at Study Session.

### **PUBLIC NOTIFICATION AND INPUT**

Two Citizen Review meetings were held on July 3, and December 4, 2013 and a public hearing was held on March 5, 2014. For the May 7, 2014 meeting, a notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

Staff received written comments from the public on the proposed text amendment and verbal comments during the *Communications from Citizens* portion of the Planning Commission's Regular Meeting agenda on April 2, 2014

### **STAFF REQUEST**

Staff requests Planning Commission input.

Respectfully submitted,



Jordan Feld, AICP  
Senior Planner

### **Attachments:**

|              |  |
|--------------|--|
| Attachment 1 | Stakeholder Meeting Notes for June 23, July 21 and August 18, 2014 |
| Attachment 2 | Hospital Use Matrix  |

**Z13-11**  
**Attachment 1: Stakeholder Meeting Notes for**  
**June 23, July 21 and August 18, 2014**  
**October 1, 2014**

**MEETING NOTES**  
**BEHAVIORAL HEALTH STAKEHOLDERS MEETING**  
**MONDAY, AUGUST 18, 2014, 7:15 A.M.**  
**CONFERENCE ROOM 100**  
**MUNICIPAL OFFICE BUILDING II**  
**90 E. CIVIC CENTER DRIVE**  
**GILBERT, ARIZONA**

PRESENT: Paul Galdys, Gail Evans, David Blaser, Brigitte Peterson, Steve Eiss, Randy Gray, Amy Peterson, Victor Petersen, Jared Taylor, Jordan Feld, Catherine Lorbeer and Linda Edwards.

Principal Planner Lorbeer welcomed everyone to the third meeting of the stakeholders to discuss the topic of behavioral health hospitals. She asked if the group had any additional information to share.

Principal Planner Lorbeer said that there was a question about a court adjudicated individual. Mr. Paul Galdys explained the overall petition process. He mentioned the duration of the court order would be for one-year and renewable. Ms. Amy Peterson had a concern about where these individuals could potentially be dropped off. In particular, if a facility like Saguaro Springstone would be a destination. Mr. Galdys said involuntary individuals would go to Urgent Psychiatric Care or Recovery West. Mr. Gray added that Arizona stands as one of the premier providers of quality behavioral health services and is highly financed far more than any western state. He also said that for profit or not for profit facilities should be aligned with other medical facilities. Mr. Gray thought a Use Permit would be a means to slow the process and allow appropriate questions to be asked.

Planning Manager Edwards said it is good to provide a multitude of services for mind and body in the same place. Planning Manager Edwards mentioned what was recently done in the Heritage Village Center – creation of an Entertainment District which has to do with liquor licenses and other users such as theaters. She said there is a potential to have a hospital overlay. She reiterated that several years ago, Gilbert initiated a major General Plan Amendment to create more land around Mercy Gilbert and Higley/US 60 that would allow a variety of medical services and complementary services. She asked if the group would like to think of a tool other than separation distance and Use Permit to embrace medical services that should be together. The separation distance for new users would not allow locating next to each other.

Ms. Amy Peterson said she did extensive research with Springstone's other facilities located in other States. She said it was not a good idea to have this type of facility near an elementary school when there was available space around Mercy Gilbert hospital. It was mentioned the VA facility not locating closer to Mercy Gilbert and the determining factor was cost of land. Mr. Eiss said that Banner owns the property surrounding its facility but did not know the land situation with Mercy-Gilbert. Ms. Amy Peterson said there is definitely a need but the Town must figure out how to move forward.

It was mentioned that Gilbert could not sustain another acute care facility since it already has three within its boundaries but expansion of existing facilities could be a possibility. Planning Manager Edwards said that Gilbert has carefully looked at mixed uses, not only horizontally across a site or parcel but in the same building thinking about people who work various shifts who may need child care, and the need to think about not preventing certain things that seem to make sense. She focused on what could be a zoning tool, a planning tool that works and still provides a good public process. Planning

Manager Edwards has a concern to make sure that Gilbert can still grow its hospital campuses. Principal Planner Lorbeer said instead of thinking of separation maybe think about the integration of these types of facilities are required to be within certain proximity of an existing facility. Several stakeholders were positive to the idea of integration and felt other surrounding communities would follow suit.

Planning Manager Edwards reminded the group there are three zoning districts which allow hospitals including behavioral – Business Park, Public Facility/Institutional and Regional Commercial. She said that it is very complex issue. It was also pointed out that an overlay district may work in that development within the overlay would have reduced separation setbacks versus developing outside of the overlay district the separation setback would be imposed.

Mr. Randy Gray said that psychiatric in-patient care is very expensive - \$1,500 to \$2,000 per day and a pertinent question is whether patients have a support system as there are no assurances.

Ms. Amy Peterson asked if they choose not to locate in the overlay area, wants to make sure there is something in place for it to go through the public process. Another element mentioned by Ms. Amy Peterson had to do with dispensaries. Planning Manager Edwards responded that staff will have to look at existing clinics and urgent cares in Gilbert. Mr. Blaser said the Conditional Use Permit makes it a public process. It enables all the neighbors to voice concerns and assures the most open process.

A suggestion was made to remove the permitted use of Hospital from the General Commercial (GC). Planning Manager Edwards pointed out on a map where potential medical campuses could be. Planning Manager Edwards said the group generated some good ideas to map and to look at.

With the time remaining, the group reviewed a list of facts and a chart prepared by staff where the uses are permitted within a category and the level of review received today. A hypothetical scenario was given of the current Gilbert hospital closes and a new owner comes in. The overlay district would be a benefit.

Some of the key concepts or thoughts summarized (\* refers to comments) include:

1. The State has adopted new licensing standards and rules that integrate behavioral health services with physical health and well-being, in response to emerging public health policy about critical value of integrated healthcare delivery. A patient could be treated for a physical issue or a behavioral health issue in the same hospital with one medical record. \*Stakeholders agreed with statement.
2. Specialized care/services for behavioral health may exist within a physical health facility or hospital. Certain services could be offered in a medical clinic, office, group home, or recovery residence.
3. The cost to the State for regulating and servicing individual and community health demand is enormous (cumulate cost exceeds education, infrastructure and public safety). \*Some footnotes will be offered and will reach out to stakeholders for information.
4. Significant community input has emphasized the need to limit or require separation for behavioral health facilities that treat court-determined dangerous individuals that desire to locate in Gilbert and has expressed the need for heightened review of facilities that treat potentially dangerous individuals, especially in proximity to schools and day care uses. \*Mr. Gray pointed out patients will be brought in from other states. MD Anderson Cancer facility was mentioned as well. Need to have something in place to know who these facilities are (i.e.,

Springstone). Need for a good transparency process with honest dialogue about general characteristics.

5. The community has not expressed any concern regarding behavioral health treatment facilities for those individuals not determined, or potentially considered, a danger. \*There is a community need for these types of services.
6. The security of behavioral health facilities is a dominant concern of the community. The community desires a solution for these security concerns that is legally defensible.
7. The National Institute of Mental Health (NIMH) reports that 26.2% of Americans experience a diagnosable mental disorder during any given year and individuals with a serious mental illness are known to die 25 years earlier than the general population (31.8 years sooner in Arizona) due to years of life lost from co-morbid chronic physical health conditions and suicide.
8. Consistent with all suburban municipalities in our region, there is an overwhelming need in Gilbert for specialized behavioral health care. \*Merge #8 with #5.
9. The inadequacy of services specific to behavioral health places a serious burden on general physical health facilities and hospitals that are not largely equipped to serve behavioral health needs. A significant outcome from this situation is the unnecessary occupancy of emergency medical facilities by those in need of behavioral health services, and the attendant delay for emergency medical services.
10. Behavioral health facilities tend to place greater demand on a community's emergency medical first-response services than other land use types due to the transportation needs of patients in crises mode.
11. Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.
12. Within the Phoenix Metro region, behavioral health facilities and hospitals are located close to schools and daycare, and in some instances, are located on the same parcel. \*Included as just a recognition.
13. Schools and day care uses are permitted in nearly every zoning district in Gilbert.
14. The American with Disabilities Act (ADA) prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. In practice, ADA prevents dissimilar regulation of like-medical care land uses.
15. In-patient behavioral health facilities are considered as Hospitals by the Gilbert Land Development Code.
16. The Gilbert Land Development Code provides specific separation (concentration of use, proximity to incompatible or sensitive land uses) requirements for certain land uses.
17. Pockets of Maricopa County land within the Gilbert Planning Area have different zoning requirements. \*County Islands.

Mr. Gray spoke with Denny Barney and Steve Shucree about conflicts within the county islands. The two have agreed to review the issue.

Ms. Amy Peterson would like a statement regarding the concern and the reason why was due to a for-profit coming in (Springstone) that was permitted by right to develop 75 feet next to a school and asked for recognition of how it came to be.

Mr. Galdys requested that local data be added to the fact sheet about violence because statistics show that people with mental illness are not fundamentally dangerous. He emphasized the harm caused by stigma and stereotypes surrounding individuals seeking care. Councilmember Taylor agreed it was

important to acknowledge and balance information with public perceptions about violent acts reported by the media. Other concerns were voiced about individuals not seeking treatment.

Staff will clean up the sheet of facts and information, add some of the input given today and share with the group as a whole. Principal Planner Lorbeer confirmed that the group did not feel a strong need to meet again. The next step will be to take everything to a Study Session with Planning Commission which is tentatively scheduled for Wednesday, October 1st and depending on the outcome of the study session, staff will craft a text amendment that would come back to Planning Commission in November or December. Principal Planner Lorbeer thanked everyone for their participation and sharing information. An invitation was extended to the stakeholders for the October 1<sup>st</sup> Study Session.

Meeting adjourned at 8:55 a.m.

Attested:

  
Elizabeth A. Stupski, Recorder

**MEETING NOTES  
BEHAVIORAL HEALTH STAKEHOLDERS MEETING  
MONDAY, JULY 21, 2014, 7:15 A.M.  
CONFERENCE ROOM 100  
MUNICIPAL OFFICE BUILDING II  
90 E. CIVIC CENTER DRIVE  
GILBERT, ARIZONA**

PRESENT: Paul Galdys, Aimee Rigler, Gail Evans, Rich Vandermolen, David Blaser, Brigitte Peterson, Steve Barton, Steve Eiss, Randy Gray, Jack Vincent, Jordan Feld, Catherine Lorbeer and Linda Edwards

Principal Planner Lorbeer welcomed everyone to the second meeting of the stakeholders to discuss the topic of behavioral health hospitals.

The agenda for today was for the participants to share information, facts, or data about the industry or what the community needs are so that there is an understanding of how services are provided in Gilbert and with time permitting, to talk about maps that show concepts of a potential separation of behavioral health hospitals from other sensitive land uses.

Information was sent over the weekend by Mr. Paul Galdys and he reviewed the contents. In his email were links relating to the standards and rules. Draft rules went live October 1, 2013 and the licensure official rules went live July 1, 2014. Majority of the services you find are stabilization and observation services. It can now exist within a physical health facility or hospital licensed already but needs to be indicated. For behavioral in-patient facility, there are still separate sections and rules. He stated that 26.2 percent of the population in the U.S. 18 years old or older experiences the diagnosis of mental disorder. Principal Planner Lorbeer will forward Mr. Galdys email to the group.

Planning Manager Edwards asked if there was a difference in legislation for clinics which is where you go, receive help and leave. Mr. Galdys said there is one set of rules but there are specific areas within the rules for behavioral health outpatient services and others.

Planning Manager Edwards pointed out that the stakeholder group is focused at the direction of the Commission on where our hospitals are permitted today, however, if a behavioral health care service is operated in a clinic, it may be permitted in other zoning districts where hospitals are not. Hospitals are permitted by right in General Commercial, Regional Commercial and Public Facility/Institutional and by Conditional Use Permit in Business Park and General Office. As the group learns more, we need to look carefully at how the question has changed and be sure we are responding to the bigger question.

Mesa paramedic Steve Barton shared some data he collected about the type of medical calls Mesa has responded to, with over hundreds being behavioral health calls. Mesa has a behavioral health unit, which is an ambulance with a mental health provider who can mitigate and determine the appropriate facility before overloading the emergency rooms. Mesa just received \$12.2 million in grant funds to put three additional trucks in service. Mesa has partnered with different mental health providers in the East Valley to transport patients to.

Mr. Barton commented on the Planning Commission staff report that on page 3 Mesa was not included especially since Mesa is Gilbert's number 1 neighbor. Mr. Barton added that Mesa is leading the way in

behavioral health emergency services in responding and recognizing and putting people in these facilities. He added the top five behavioral health facilities in Mesa had over 400 calls.

Mr. Barton stated upon reading the previous staff report, it suggests that including a mental health facility in the same definition of a hospital and lumping them all together would not be the same. It is not an apple to apple comparison. He said when one thinks of a hospital, it is attached with an emergency room. When a violent behavioral patient is taken to a hospital, security is available and they sit with a mental patient the entire time. Non-threatening person is under constant watch by a nurse. If you were to go under an umbrella under the same definition, this would be a slippery slope.

Mr. Barton said the type of calls could range from suicide attempts, substance abuse, and threat of harming themselves or harming others. Must be careful not to place them next to where there are families or children. Planning Manager Edwards asked Mr. Barton what a safe zone would be for a behavioral health facility. He responded "eyesight". He would not put a facility within a mile of a school. Planning Manager Edwards said that Gilbert recognizes there is a need for these types of facilities.

Mr. Randy Gray began by saying he met with the CEO of Springstone Behavioral Health facility when they were considering a location in Gilbert and determined within 24 hours to say Not in My Back Yard. He found that Springstone had 4 lawsuits against them as well as multiple problems. Mr. Gray indicated that an electronic medical record is the greatest evolution, which will assist the paramedic, police or other services.

Mr. Gray indicated he has about 40 years of experience in behavioral health/mental disabilities and is associated with Marc Community Resources Inc. which has six outpatient clinics from Wickenburg towards Gateway. He said a person who comes in for a prescription is as dangerous as an in-patient person. He said people who voluntarily admits themselves can also voluntarily discharge themselves and this is a big concern.

Planning Manager Edwards noted appreciation for all the information being shared. She asked if a facility is needed in every community, where is there a location that seems to make sense. Mr. Gray responded that in/out-patient is not even eyesight to residential. He mentioned Midwest states of Kentucky, Ohio, Georgia, Tennessee, such facilities are embedded in woodlands. He added that they should be in short proximity to hospitals. In-patients are saturated in high commercial or outlying areas and transportation can become an issue. There has been a dramatic growth in behavioral health in the last seven to ten years. He distributed information compiled by Dr. Mike Fransik, Christy Dye and Ted Williams.

Ms. Gail Evans asked a zoning question and what Gilbert established as a distance with a medical marijuana facility. Principal Planner Lorbeer responded that the distance was a quarter mile from certain sensitive uses, also a distance from each other, schools, parks, churches residential districts, etc. The medical marijuana has resulted in the Light Industrial areas. A day care and school can go in any district. Ms. Evans mentioned in Pinal County, there is a Level 1 facility surrounded by an old residential area. Ms. Evans asked if there was a distance determined for hospital. Ms. Peterson indicated Mercy Gilbert is within a mile of a school and a mile of residential, Gilbert Hospital within a mile of residential and Banner Gateway within a mile of residential and school. Mr. Eiss mentioned the Behavioral Health facility in Scottsdale and that it may be worth getting input from that community. Mr. Blaser mentioned he has an appointment in the afternoon with Mike Siminall, CFO and CEO. Several facilities were

mentioned and where they are located. Biggest challenge is there is a shortage of in-patient beds and people are getting dropped off at emergency room facilities. It was also noted that at Banner Gateway, receives about 8 – 10 psych holds a day.

Principal Planner Lorbeer asked if anyone else had something to add. Mr. Blaser will send how his meeting went and any information he received.

Mr. Gray made one additional statement that the most important takeaway is that we know we are an involving changing system of community care and the biggest change is the interface of acute, physical medical site with the long care needs. Municipal governments need to know that these psychiatric facility need to be near or next to the hospital.

There was some discussion of possible solutions as to where such facilities can locate. It was noted that the zoning is complicated. Is separation the way to go, establishing a distance could be detrimental, maybe a Use Permit where the public can comment in a public hearing process? It was also asked if Gilbert has an Administrative Use Permit and what the criteria might be. Principal Planner Lorbeer responded it has the same findings as a Use Permit but does not have to go through a public hearing. Planning Manager Edwards clarified that the Administrative Use Permit does require public noticing and a comment period. A question was asked about County Islands and Planning Manager Edwards said there were still pockets of County Islands in the community.

Principal Planner Lorbeer thanked everyone for their participation and the next scheduled meeting will be Monday, August 18th. She said if anyone had information they would like to pass along to the group, to send it to her for distribution.

Meeting adjourned at 8:30 a.m.

Attested:

  
Elizabeth A. Stupski, Recorder



**MINUTES  
BEHAVIORAL HEALTH STAKEHOLDERS MEETING  
MONDAY, JUNE 23, 2014, 7:15 A.M.  
CONFERENCE ROOM 100  
MUNICIPAL OFFICE BUILDING II  
90 E. CIVIC CENTER DRIVE  
GILBERT, ARIZONA**

PRESENT: Paul Galdys, Matt Streeper, Aimee Rigler, Gail Evans, Rich Vandermolten, Victor Petersen, David Blaser, Brigitte Peterson, Victor Petersen, Jack Vincent, Catherine Lorbeer and Linda Edwards

A brief background and foundation as to the reason for the stakeholders group was given by Principal Planner Lorbeer.

1. Gather more input before continuing forward with a possible text amendment to the Land Development Code. Principal Planner Lorbeer indicated that a provider with a desire to locate in Gilbert had selected two sites, which were not well-received by the community. Town Council directed staff to look at possible text amendments. She added the Planning Commission had looked at three options:
  - a. Use definition of hospitals – Amending the definition by adding behavioral health hospital
  - b. Add a possible Conditional Use Permit in some of Gilbert's land use categories, hospital required use permit, and considered if other zones permitted by right should have a use permit.
  - c. Whether there should be any separation requirement. Some of the uses in the zoning code require a distance from uses that might be sensitive like daycares and schools.
2. How do we regulate hospitals today? It is permitted by right and a project would go through Design Review Board which looks at the site plan, points of access, circulation, parking, pedestrian access, architectural design, noise, and lighting. In some zoning categories like Business Park, a hospital would require a Conditional Use Permit and proposed project would go to the Planning Commission for additional findings to determine if it is compatible with adjacent uses.

Planning Manager Edwards wanted to make sure that there is understanding what a Use Permit can and cannot do. She explained when the Code was crafted in 2005, the uses for a Business Park could be very intense (trucks and traffic) and the Town wanted to make sure it was a safe environment for a hospital, safe environment for patients and employees. Issues are different for the need for a use permit, which is different than how the public views a Use Permit today. She added a Use Permit is basically a high level of design review.

Principal Planner Lorbeer stated hospitals are permitted by right in General Commercial, Regional Commercial and Public Facility/Institutional and by Conditional Use Permit in Business Park and General Office.

Principal Planner Lorbeer asked the stakeholders if they had any questions or comments.

Ms. Gail Evans inquired where the Gilbert population goes with a behavioral health issue. Do the Police take them basically to the Banner site? When talking about behavioral health hospital, is Gilbert looking at a lock down type facility or an integrated healthcare facility that handles both medical and behavioral

health? Principal Planner Lorbeer said she understands most facilities, if they offer any services, have a separate ward within their general hospital or have a separate facility where it transfers patients to after an initial assessment is done. Ms. Evans mentioned her late husband was CEO of the first integrated health care facility in Arizona where there was a lock down facility, an off -site Serious Mental Illness (SMI) clinic with apartments around it and a 3 story facility that provides both medical and behavioral services. Ms. Evans said behavioral health can takes in patients from depression to schizophrenia. What would a different regulation have to come into play with a different hospital?

Planning Manager Edwards said the group needs to put its arms around what is behavioral health? It is important to talk about the different services that are provided in a hospital and the different services that are same services in a behavioral hospital. That would be a good thing to identify.

Mr. Paul Galdys mentioned the Evans set the tone for integrated health care in Arizona with the work done in Apache Junction and licensure was a big challenge in part because two different licensure sets of rules governed the facilities (R920 and R910). Mr. Galdys announced that on July 1, there will be one united set of integrated licensuring rules.

Planning Manager Edwards does not want to ignore the public concerns and wants to understand their concerns and what would be the best way to address the concern of safety. Ms. Evans indicated that they had many conversations and worked closely with the Police Department and it was also an education with Police officers to help identify if the person is dangerous and where is the proper place to take them. The state only allows a facility to keep a patient 4 days to get them stabilized. A Psychiatric hospital is not like a hospital where there are 300 beds.

Planning Manager Edwards asked Mr. David Blaser, who has experience with construction, to tell the group if there are any certain construction criteria for behavioral hospitals that differ from a hospital. Mr. Blaser said behavioral hospitals are more secured and designed around patient safety. Mr. Blaser mentioned he felt extremely safe in the facility because of the training staff has. Mr. Blaser added a personal note where someone was taken to the emergency room and waited three days for a behavioral health bed. There is a real need in the community and valley for this type of facility.

Planning Manager Edwards spoke about the Use Permit and what additional benefit it would provide other than a higher level of review. Mr. Blaser responded that a conditional use permit would give one more level of review and put the public's mind at ease. Planning Manager Edwards said it is an "as is" today picture. Mr. Streeper said it is hard to mitigate public opinion and public perception. Mr. Blaser said that one of the concerns expressed by the public during a Planning Commission meeting pertained to a methadone clinic/treatment.

Principal Planner Lorbeer inquired about integrated care and what was the driving force on having things integrated. Ms. Evans had given an example of the Mayo hospital and the advantage of having one medical record so if they are being treated on a behavioral health side for an issue, it can also identify if there is a physical issue. It also reduces health care cost. The extreme cases that most of the public are afraid of are those dangerous to themselves and others, are not the type of people who come to the behavioral health facility.

Mr. Galdys indicated there are about 200,000 individuals receiving mental health services in the public funded behavioral system in Arizona and individuals of SMI represent about 40,000. He also said the system has its capacity and there are times people could wait for days until a bed is available.

It was asked if the Town's current definition of a hospital was going to match what is going to happen with the regulation as far as the permit. Principal Planner Lorbeer responded that it does not include behavioral health and that is what is being explored. She read the current zoning interpretations which says "A facility licensed by the State of Arizona that provides diagnosis and treatment of patients and in-patient care by a medical staff..." and did some addition to read "A facility licensed by the State of Arizona that provides health services including diagnosis and treatment of patients and in-patient care by a medical staff. This use includes behavioral health hospitals providing in-patient medical care for treatment of addictions and mental illnesses." Staff was looking to make it inclusive since they were asked to make a formal zoning interpretation. She said the question now is since there is an interpretation that the two hospital types are comparable to each other, should the definition be amended?

Principal Planner Lorbeer asked what the group would like to discuss at the next meeting on July 21<sup>st</sup>. Councilman Petersen said a concern he hears from the public is that most are not a danger to themselves or others but what about those that are? Is there a different care standards and should there be a separate facility that would receive those individuals. It will be a big topic. Mr. Galdys responded that those individuals go to only one of the two facilities in the region.

Mr. Jack Vincent asked if someone who was admitted as a danger to themselves or others are released back to public and medicated and would come to a Gilbert facility for treatment or follow-up. Mr. Galdys said there is a risk of getting sued so there is a discharge plan and facilities are very cautious.

Ms. Evans informed the group that she could set up a tour of the facility in Apache Junction.

Planning Manager Edwards would like as a follow-up for the next meeting more basic data to understand who these patients are and using these types of services and what the need is for the Phoenix Metro area, East Valley and Gilbert. Ms. B. Petersen said the big topic would be if a facility did come to Gilbert, what kind of people and who would using the facility for what kind of treatment, how long would they be staying. Mr. Galdys thinks the majority would be privately funded. He will do his best to get that type of information.

Principal Planner Lorbeer thanked everyone for their participation and the next scheduled meeting will be Monday, July 21<sup>st</sup>. She said if anyone had information they would like to pass along to the group, to send it to her for distribution.

Meeting adjourned at 8:27 a.m.

Attested:

---

Elizabeth A. Stupski, Recorder

|                                      | SF-43 & SF-35 | SF-15 thru SF-6 | SF-D & SF-A | MF-L | MF-M | NC | CC | SC | GC | RC | NO | GO | BP | LI  | GI  | PF/I |
|--------------------------------------|---------------|-----------------|-------------|------|------|----|----|----|----|----|----|----|----|-----|-----|------|
| Congregate Living Facility.          | U             | -               | -           | U    | U    | -  | U  | U  | P  | P  | -  | U  | -  | -   | -   | -    |
| Day Care Centers.                    | -             | -               | -           | 4    | -    | P  | P  | P  | P  | P  | -  | 6  | 7  | 7   | 7   | 7    |
| Day Care, Home Occupation.           | 1             | 1               | 1           | 1    | 1    | -  | 5  | 5  | 5  | 5  | -  | -  | -  | -   | -   | -    |
| Day Care, Residential.               | 2             | 2               | 2           | 2    | 2    | -  | -  | -  | -  | -  | -  | -  | -  | -   | -   | -    |
| Group Homes for the Handicapped.     | 3             | 3               | 3           | 3    | 3    | -  | -  | -  | -  | -  | -  | -  | -  | -   | -   | -    |
| <b>Hospital.</b>                     | -             | -               | -           | -    | -    | -  | -  | -  | P  | P  | -  | U  | U  | -   | -   | P    |
| Urgent Care Facility.                | -             | -               | -           | -    | -    | P  | P  | P  | P  | P  | U  | P  | -  | -   | -   | P    |
| Medical Offices and Clinics.         | -             | -               | -           | -    | -    | P  | P  | P  | P  | P  | P  | P  | P  | -   | -   | -    |
| Instructional Services, Specialized. | -             | -               | -           | -    | -    | P  | P  | P  | P  | P  | P  | P  | -  | -   | -   | -    |
| Medical Marijuana Dispensary.        | -             | -               | -           | -    | -    | -  | -  | -  | -  | -  | -  | -  | -  | U-8 | U-8 | -    |
| Nursing Home.                        | -             | -               | -           | -    | -    | -  | -  | U  | P  | P  | U  | P  | -  | -   | -   | -    |
| Shelter Care Facility (Small).       | P             | P               | -           | -    | -    | -  | -  | -  | -  | -  | -  | -  | -  | -   | -   | -    |
| Shelter Care Facility (Large).       | -             | -               | -           | U    | U    | U  | U  | U  | P  | P  | -  | -  | -  | -   | -   | P    |
| Shelter Care Facility, Homeless.     | -             | -               | -           | -    | -    | -  | -  | -  | U  | -  | -  | -  | -  | -   | -   | U    |

1 Only as a use incidental to the principal use of the property. See Section 4.502

2 Only as a use incidental to the principal use of the property. See Section 4.503

3 See Section 4.504

4 Day Care Centers shall be located on collector or arterial streets; Cond. Use Permit approval is required for any other location.

5 See Section 4.502

6 Uses shall not be permitted as stand-alone businesses; limitation on square footage of combined uses. See Section 2.506

7 Only as a use incidental to the principal use of the property. Shall not front onto arterial street.

8 See Section 4.5014

**Z13-11**

**Attachment 2: Hospital Use Matrix**  
**October 1, 2014**

**TOWN OF GILBERT  
PLANNING COMMISSION STUDY SESSION  
GILBERT MUNICIPAL CENTER, 50 E. CIVIC CENTER DRIVE, GILBERT ARIZONA  
OCTOBER 1, 2014**

**COMMISSION PRESENT:**

**Chairman Joshua Oehler  
Vice Chairman Kristofer Sippel  
Commissioner David Blaser  
Commissioner Carl Bloomfield  
Commissioner David Cavenue  
Commissioner Brent Mutti  
Commissioner Jennifer Wittmann**

**COMMISSION ABSENT:**

**None**

**STAFF PRESENT:**

**Planning Services Manager Linda Edwards  
Senior Planner Jordan Feld**

**ALSO PRESENT:**

**Town Attorney Jack Vincent  
Recorder Margo Fry**

**CALL TO ORDER:**

Chairman Joshua Oehler called the meeting to order at 5:30 p.m.

**Z13-11 – Behavioral Health Hospitals - Request to amend the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Division 2 Land Use Designations, Article 2.3 Commercial Districts, Section 2.303 Land Use Regulations, Table 2.303 Land Use Regulations - Commercial Districts, to require a Conditional Use Permit for Hospitals; Article 2.7 Public Facility/Institutional District, Section 2.702 Land Use Regulations, Table 2.702 Land Use Regulations - Public Facility/Institutional District, to require a Conditional Use permit for Hospitals; and to amend Division 4 General Regulations, Article 4.5 Supplemental Use Regulations to provide separation requirements for hospitals from certain other uses; and to amend Division 6 Use Definitions, Article 6.1 Use Definitions to revise the definition of "Hospital" to include facilities offering behavioral health services.**

Senior Planner Jordan Feld stated that Z13–11 was initiated approximately 18 months ago. The Planning Commission directed staff to look at requiring Use Permits for all hospitals in the commercial and public facility districts and adding a wider definition to hospitals to include behavior health facilities and to put in separation requirements for hospitals from sensitive land uses. Several meetings have been held over the previous 18 months and at the last meeting the Commission directed staff to facilitate a technical stakeholders group. There were two previous projects that were to locate in the Town that the community clearly felt would not be a compatible land-use and that is the impetus of the current effort. The stakeholder group consisted of members of the Town Council, Planning Commission, various members of the AZ Department of Health Services and various members of the health care industry and business communities, the Small Business Alliance and the Chamber of Commerce. There were also several members of the neighborhood who spoke out against the previous two projects that ultimately did not get approved in the Town. The group also included legal and planning staff. Three meetings were held over the course of three

months where presentations were given by outside experts to the stakeholders group. Mr. Feld referred to the following 17 findings of fact in the staff report that were presented to the stakeholder group:

- 1) Community concern is heightened about the location of Behavioral Health Hospitals due to a for-profit facility proposing to come into Gilbert that was permitted by right in a General Commercial zoning district to develop approximately 75 feet from an elementary school.
- 2) The State has adopted new licensing standards and rules that integrate behavioral health services with physical health and well-being, in response to emerging public health policy about the critical value of integrated healthcare delivery. A patient could be treated for a physical issue or a behavioral health issue in the same hospital with one medical record.
- 3) Specialized care/services for behavioral health may exist within a physical health facility or hospital. Certain services could be offered in a medical clinic, adult day care, office, group home, or recovery residence.
- 4) The cost to the State for regulating and servicing individual and community health demand is enormous (cumulative cost exceeds education, infrastructure and public safety). See [http://www.usgovernmentsspending.com/state\\_spending\\_2014AZbn](http://www.usgovernmentsspending.com/state_spending_2014AZbn)
- 5) Significant community input has emphasized the need to limit or require separation for behavioral health facilities that treat court-determined dangerous individuals that desire to locate in Gilbert and has expressed the need for heightened review of facilities that treat potentially dangerous individuals, especially in proximity to schools and day care uses. The heightened review would offer a transparent process with honest dialogue about a proposed facility's general characteristics.
- 6) Consistent with all suburban municipalities in our region, there is an overwhelming need in Gilbert for specialized behavioral health care. The community has expressed some concern regarding behavioral health treatment facilities even when those individuals have not been determined, or potentially considered, a danger.
- 7) The security of behavioral health facilities is a dominant concern of the community. The community desires a solution for these security concerns that is legally defensible.
- 8) The National Institute of Mental Health (NIMH) reports that 26.2% of Americans experience a diagnosable mental disorder during any given year and individuals with a serious mental illness are known to die 25 years earlier than the general population (31.8 years sooner in Arizona) due to years of life lost from co-morbid chronic physical health conditions and suicide.
- 9) The inadequacy of services specific to behavioral health places a serious burden on general physical health facilities and hospitals that are not largely equipped to serve behavioral health needs. A significant outcome from this situation is the unnecessary occupancy of emergency medical facilities by those in need of behavioral health services, and the attendant delay for emergency medical services.
- 10) Behavioral health facilities tend to place greater demand on a community's emergency medical first-response services than other land use types due to the transportation needs of patients in crises mode.
- 11) Behavioral health services benefit from locations that are close to other medical facilities and to public transportation systems.
- 12) Within the Phoenix Metro region, behavioral health facilities and hospitals are located close to schools and daycare, and in some instances, are located on the same parcel.
- 13) Schools and day care uses are permitted in nearly every zoning district in Gilbert.
- 14) The American with Disabilities Act (ADA) prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. In practice, ADA prevents dissimilar regulation of like-medical care land uses.

- 15) In-patient behavioral health facilities are considered as Hospitals by the Gilbert Land Development Code.
- 16) The Gilbert Land Development Code provides specific separation (concentration of use, proximity to incompatible or sensitive land uses) requirements for certain land uses.
- 17) Pockets of Maricopa County land (County islands) within the Gilbert Planning Area have different zoning requirements.

Planner Feld stated that if they were to group the 17 points into three categories one would be trends; what is going on in healthcare today and what if any bearing does it have on the question at hand. From the community observation, the community is very concerned about behavioral health facilities locating in the Town because of the perception that there is risk of patients getting out of the facility, of not being supervised or somehow impacting adjacent sensitive land uses. The community is interested in establishing regulatory tools to help prevent incompatible siting of hospitals in the future. From a land-use perspective, the findings of fact that came from the stakeholder group, behavioral health is defined as a hospital. Where hospitals are allowed by right with the use permit today that is where behavioral health facilities are allowed. ADA essentially prohibits disparate treatment of mental health facilities versus other types of facilities. In various parts of the region hospitals are located in very close proximity to schools or day cares. In Phoenix there are facilities on the same parcel or adjoining parcels. Schools and day care centers are really allowed anywhere so to the degree that they begin to look at a separation requirement between those specific uses and future hospitals there is quite a bit of mapping analysis that needs to occur to be sure that they are not, by default, prohibiting future hospital development in the Town. Planner Feld noted that certain commercial districts require a use permit for a hospital and other commercial districts do not. The General Plan speaks to growth areas in the community and there are 6 identified growth areas. Two of the growth areas are actually focused on medical service development. One of the things that they need to look at is if they put restrictions in place for any type of hospital in those zoning districts, are there other areas where there would be an incentive for hospitals where they wouldn't apply those separation requirements and wouldn't have a Use Permit. Those are things that staff is considering with the Commission input and direction. Planner Feld displayed a chart that showed where hospitals are allowed currently and whether they were by right or with the use permit. The chart also showed the different types of uses that involved some form of mental health or behavioral healthcare. He noted that behavior health care treatment happens on many levels at many skills and many different types of settings and is not all inpatient hospital services but is a range of services that address community health care needs. Planner Feld noted that the sensitive land uses were day care and residential and that the relationship to those uses was an assumed 500' to 1,000' buffer. He said that 500 feet appeared to be something that was manageable. Planner Feld pointed out on a chart that there was a great deal of acreage that exists today of vacant property zoned parcels for hospitals. Planner Feld displayed a map that analyzed the growth areas with respect to zoning. He asked if the Commission had any direction on that distance and the uses that they would be applying the separation to and should they be looking at extending the use permit requirement to cross all districts that allow hospitals. Should they eliminate the ability to do hospitals in the GC district and within the growth area should they be looking at trying to create an overlay or other tool that would allow hospitals by right in certain districts without a separation requirement or Use Permit in those growth areas or should they apply protections to the growth areas.

Vice Chairman Sippel asked if there was a reason that staff felt more comfortable with 500 feet versus 1000 feet.

Planner Feld said that this was really more of the eyeballing test and that they had just gotten the maps and in looking at them 500 feet has a lesser impact than the 1000 foot buffer. He noted that what they had heard from the community was that the concern is line of sight and that they did not want the hospital to be visible to an adjacent school or day care. 500 feet would be more consistent with that thought.

Vice Chairman Sippel asked for clarification on incentivizing certain areas.

Planner Feld said that incentivizing was said in the sense that if Town wide the districts that allow hospitals require a Use Permit and separation requirement there is a lengthier process with more scrutiny to that

process versus 5 sub areas where they do not have those restrictions that in a sense is incentivizing it but not in the traditional economic development sense of the word.

Commissioner Cavenee asked if they know if they have any hospitals or behavioral health facilities that are within the 1000 feet currently.

Planner Feld indicated a map and indicated existing hospitals and their buffers. He said they either have buffers overlaying it or coming very close to it.

Commissioner Blaser said that he was concerned about putting district restrictions of any kind on behavioral health hospitals. He had spent a lot of time at the Banner Behavioral Health Hospital and their business model actually has a school on the premises. The concern that the stakeholders had was the type of services provided within that behavioral health facility. Commissioner Blaser said that he would support fully a Use Permit application. Defined within the use permit process it is up to the Commission to make sure that it promotes the safety and well-being of the community. That would enable neighbors to voice their opinions and the public to know what types of services were provided and enable them to make an informed decision on a case by case basis.

He said that he would fully support the public process through the Use Permit.

Commissioner Cavenee asked for clarification regarding the school component.

Commissioner Blaser responded that it was a Banner school and he believed that it was elementary through 12<sup>th</sup> grade where the students were actually bussed to the facility. He added that there was no question that there was an overwhelming need for this.

Commissioner Cavenee asked if it was specifically for children who had been diagnosed with a behavioral health issue.

Commissioner Blaser responded that it was.

Commissioner Mutti said that he understood that there was a lot of concern about the distance between schools and the hospitals and asked if there was a study or source to cite which says that there is a higher incident of certain situations in and around the facilities within a certain radius or was it just an irrational fear.

Planner Feld said that they had asked the Department of Health Services for any kind of crime statistics that they have and are still working with that agency to get that data. In terms of calls per service it would be fair to say that these types of facilities get more calls compared to a single family residence.

Commissioner Blaser said that in terms of phone calls and concerns the trend tends to follow the types of services offered within the hospital. There is a wide range of services that can be offered within a behavioral hospital and that is why the public process is going to be so important. It is important to involve the public on a case-by-case basis. The public cited concern about the hospital that wanted to come into the Town previously and there was specific data about that hospital that caused concern. Commissioner Blaser pointed out that he had spent a lot of time with the CFO of the Banner Behavioral Health Facility and they had never had any complaints from the neighbors and there is residential surrounding the hospital.

Commissioner Wittmann asked what some of the separation distances were that the Town has implemented for other nontraditional uses.

Planner Feld said that they run the range of 300 feet to ¼ mile.

Commissioner Wittmann asked how staff decided that 500 feet versus 1000 was the best choice.



Planner Feld said that was approximately the separation distance approved for the marijuana facilities ordinance that was approved.

Commissioner Wittmann asked if the separation distance was defined from property line to property line or building to building.

Planner Feld said that definition would be provided through the process.

**Z14-15-C - An amendment to the Town of Gilbert Land Development Code to amend Land Use Regulation tables in all Zoning Districts, amend development regulations and site regulations in all zoning districts, amend sign regulations and subdivision regulations.**

Planner Jordan Feld stated that staff had begun to put together ideas for how they might go about addressing the guest parking issue in higher density single-family districts. He referred to the following information from page 3 of the staff report:

**VISITOR PARKING (Chapter I, Article 4.2, Section 4.203.F)**

Visitor Parking On-street parking may be counted toward the visitor parking requirement for developments in the Single Family Detached (SF-D), Single Family Attached (SF-A), Multi-Family/Low (MF/L), and Multi-Family/Medium (MF/M) zoning districts provided that the street has a minimum 8.5 foot wide legal parking area exclusive of travel lanes. To qualify as one visitor parking space, there shall be an uninterrupted 22 foot long space and a sidewalk adjacent to the parking side of the street. The Town may require on-street visitor parking spaces to be striped.

**PRIMARY PARKING (Chapter I, Article 4.2, Section 4.204)**

Residential, Permanent

Single Family (on-street parking permitted) 2 enclosed spaces per unit.

Single Family (no on-street parking) 2 enclosed spaces per unit; plus .25 guest spaces per unit.

Multi-Family 1 space per 1-bedroom/studio unit; 2 spaces

per 2 or more bedroom units; all plus .25

guest spaces per unit; 1 space per unit shall

be covered, of which 25% shall be enclosed

Planner Feld noted that they looked at several developments between SF-A and, SF-6 and some multifamily lower density. The auto court, alley loaded traditional neighborhood design does minimize on street parking and takes away a lot of the opportunity for on street parking so they need to focus on what is going on from a design standpoint with those types of subdivisions and what is going on with the guest parking. Auto courts have unique challenges as they do not have full-length driveway in front of their garage or in front of their required enclosed space so they lose the secondary default guest parking area. Because the access is internalized in these alleys you lose street frontage which takes away from the guest parking capacity. It is staff's observation that higher density single-family functions a lot like lower density multifamily. In a multifamily development with almost the exact same building types on auto courts that are multifamily you will see parking clusters, striped spaces and the types of things that make it much easier to find and use guest parking so they are trying to take some of that design criteria that they would apply to a lower density multifamily project for guest parking. Staff will be looking at parking island requirements, striping requirements, having some spaces angled as opposed to parallel, possible storage requirement and guest parking at activity areas within subdivisions having a requirement for some minimal level parking at those areas. Planner Feld displayed photographs of several subdivisions in the valley and pointed out their parking solutions.

Commissioner Wittmann said that she had noticed an issue with parking, specifically in the SF-D products. She said that in her own neighborhood it appears that many of the SF-D homeowners are not using their